

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

REBECCA MAUREEN SMITH,

Petitioner,

v.

CASE NO. 11-cv-10439  
HONORABLE LAWRENCE P. ZATKOFF

MILLICENT WARREN,

Respondent.

**ORDER GRANTING RESPONDENT'S MOTION TO  
FILE AN EXHIBIT IN THE TRADITIONAL MANNER**

This habeas corpus matter is pending before the Court on respondent Millicent Warren's motion to file an exhibit in the traditional manner. Petitioner Rebecca Maureen Smith is challenging her Oakland County conviction for second-degree murder. The victim was Petitioner's husband, Michael Smith.

One of Petitioner's habeas claims alleges that the trial court abused its discretion by admitting in evidence letters that Petitioner wrote to her sister and a friend while she was confined in the county jail. The letters urged the recipients to write anonymous letters to the trial judge, defense counsel, and Oakland Press, stating that they had killed Mr. Smith. Respondent wants to file a compact disc (CD), which is a recording of telephone calls that Petitioner made from jail. The CD was played for the jury during Petitioner's trial, and it pertains to the letters that Petitioner wrote to her sister and friend.

The Court's Electronic Filing Policies and Procedures state that,

[a] filing user must obtain leave of court to file in the traditional manner exhibits that are physical objects that cannot authentically be converted to PDF as required in R18(a). . . . CDs and DVDs that contain files such as briefs, motions, and exhibits

that can be authentically converted to PDF shall not be submitted. See Ex Parte Motion for Leave to File Exhibits in the Traditional Manner (EXHIBIT C). If the Court grants a filing user leave of court to file exhibits in the traditional manner, the Notice of Filing Exhibits in the Traditional Manner (EXHIBIT D) must be completed and accompany the filing. The exhibits then must be filed according to the following procedures:

(1) The filing user must prepare an index of exhibits. This index must be filed as an attachment to the main paper and must state that the exhibits are being filed in the traditional manner rather than electronically.

(2) The filing user shall file the exhibits in the traditional manner accompanied by a cover sheet identifying the paper to which the exhibits relate (e.g., “Exhibits in Support of Defendant XYZ Company’s Memorandum in Support of Motion for Summary Judgment”). Objects must have a label physically attached that include case number and description. The Clerk’s Office will note on the docket its receipt of the exhibits.

(3) A filing user must serve materials filed in the traditional manner on other parties in accordance with the federal and local rules, and file a notice electronically [see R8(d)].

LR - Appendix ECF, R18(c) (E.D. Mich. Mar. 2010).

The CD in question here is relevant to an issue in this case and cannot be converted to PDF.

The Court therefore **GRANTS** Respondent’s motion to file an exhibit in the traditional manner [dkt.

#7]. Respondent shall file the CD according to the procedures outlined in R18(c).

s/Lawrence P. Zatkoff

LAWRENCE P. ZATKOFF

UNITED STATES DISTRICT JUDGE

Dated: December 8, 2011

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on December 8, 2011.

s/Marie E. Verlinde

Case Manager

(810) 984-3290